

COUNTY OF FAIRFAX, VIRGINIA

SPECIAL PERMIT RESOLUTION OF THE BOARD OF ZONING APPEALS

CALVARY MEMORIAL PARK, INC. T/A FAIRFAX MEMORIAL PARK & FAIRFAX MEMORIAL FUNERAL HOME, LLC, SPA 81-A-022-09 Appl. under Sect(s). 3-103 of the Zoning Ordinance amend SP 81-A-022 previously approved for funeral home, cemetery, mausoleums, crematory and columbariums to permit modification of development conditions and site modifications. Located at 4401 Burke Station Rd., 9900 and 9902 Braddock Rd. on approx. 128.14 ac. of land zoned R-1. Braddock District. Tax Map 69-1 ((1)) 1, 12 and 12A. (Admin. moved from 12/16/08, 1/13/09, 3/10/09, 4/21/09, 4/28/09 and 5/19/09 at appl. req.) (Continued from 6/2/09 and 8/11/09) (Decision deferred from 10/6/09, 1/6/10, 2/24/10, [and 3/24/10](#)). Mr. Hart moved that the Board of Zoning Appeals adopt the following resolution:

WHEREAS, the captioned application has been properly filed in accordance with the requirements of all applicable State and County Codes and with the by-laws of the Fairfax County Board of Zoning Appeals; and

WHEREAS, following proper notice to the public, a public hearing was held by the Board on April 14, 2010; and

WHEREAS, the Board has made the following findings of fact:

1. The applicants are the owners of the land.
2. The motion has been a long time coming.
3. The cemetery is an important use in Fairfax County; it takes up a lot of area; it has potential impacts upon neighbors; and, the neighborhood has changed a great deal since the 1950s.
4. The regulatory approach has changed over the years with respect to stormwater management and Chesapeake Bay and such things.
5. It is recognized now that the impacts on Chesapeake Bay are more stringently regulated than at the time the cemetery began operation.
6. The Board has struggled with the issue of what to do with the dirt generated by an ongoing cemetery operation on this and other cases.
7. There is now closure between what the applicant believes is feasible and what they propose to do as well as what the staff is looking for in terms of monitoring the ongoing dirt moving and storage operation and ensuring that the water quality is not negatively impacted.
8. It has been recognized through the review of the materials over the months that there was some opposition in the neighborhood, but to the extent that land use issues have been identified, through the continued dialogue between the applicant and staff, the impacts have been mitigated as much as could reasonable be done.
9. It is recognized that the cemetery use was there first; as long as it is adequately screened and buffered, the use is going to be there for a considerable period of time.

AND WHEREAS, the Board of Zoning Appeals has reached the following conclusions of law:

THAT the applicant has presented testimony indicating compliance with the general standards for Special Permit Uses as set forth in Sect. 8-006 and the additional standards for this use as contained in the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the subject application is **APPROVED** with the following limitations:

1. This approval is granted to the applicant, Calvary Memorial Park, Inc. t/a Fairfax Memorial Park and Fairfax Memorial Funeral Home, L.L.C., only and is not transferable without further action of this Board, and is for the location indicated on the application, 4401 Burke Station Road and 9900 and 9902 Braddock Road (128.14 acres), and is not transferable to other land.
2. This special permit amendment is granted only for the purposes, structures and/or uses as indicated on the special permit plat prepared by DeLashmutt Associates Ltd., dated October 14, 2008 as revised through March 12, 2010 for Sheets 2 through 7 and as revised through April 5, 2010 for Sheets 1 and 7B and approved with this application, as qualified by these development conditions. This does not require that the new crypts, columbaria, mausoleums, and niches be on the plats provided they meet the language contained in Development Condition Number 33.
3. A copy of this special permit and the Non-Residential Use Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. This special permit is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES) as qualified by these conditions. Any plan submitted pursuant to this special permit shall be in substantial conformance with these conditions. Minor modifications to the approved special permit may be permitted pursuant to Par. 4 of Sect. 8-004 of the Zoning Ordinance.
5. All parking shall be on-site, as shown on the special permit amendment (SPA) plat. Except for times of use, hearses and similar business vehicles used in the operation of the funeral home shall be parked and/or stored within a garage.
6. Lighting for the funeral home/crematory use shall focus only onto the subject property. Any parking lot lighting fixtures shall be limited in height to twelve (12) feet. All lighting fixtures added for the funeral home/crematory use shall be full cut-off lights, and shall be fully shielded in such a manner to prevent light from projecting onto adjacent residential property.
7. The funeral home/crematory building shall be limited in size to 16,150 square feet of interior floor area, and the garage and crematory unit shall be limited to a total of 3,968 square feet, as depicted in the plat building dimensions.
8. The maximum number of chapels within the funeral home/crematory structure shall be limited to one (1). The maximum total number of seats contained within the funeral home chapel shall be limited to 272. The maximum number of viewing parlors within the funeral home/crematory structure shall be limited to five (5). The maximum total number of seats contained within each viewing parlor shall be limited to 30.
9. Funeral services shall be conducted only between the hours of 10:00 a.m. and 3:00 p.m. Visitations and wakes shall be conducted only between the hours of 2:00 p.m. and 4:00 p.m. and between 7:00 p.m. and 9:00 p.m.
10. There shall be no chapel within mausoleums, or use of chimes or bells in conjunction with this use.

11. Crematorium services shall not be provided for any other funeral home establishment.
12. The crematory shall comply with all County, State and Federal Environmental Regulations and any other regulations applicable to its operation.
13. The number of burial services within each of the mausoleum or columbarium structures shall be limited to one at a time except that multiple services may be allowed if more than one member of the same family.
14. All signs shall be in conformance with Article 12 of the Fairfax County Zoning Ordinance. The directional sign shall be permitted if in accordance with the Zoning Ordinance, as amended.
15. Any dumpster located at the funeral home shall be placed indoors or within an enclosure constructed of brick or architectural block. A gate shall be included on the enclosure. The dumpster in the maintenance area shall continue to be screened by the existing vegetation and topography.
16. The flower shop (as noted on the plat) shall be maintained as an accessory use to the cemetery/mausoleums or columbaria only. No retail sales to the general public for use outside the cemetery grounds shall be permitted.
17. All vegetation adjacent to the funeral home and surrounding parking lots as depicted on the SPA plat shall be maintained in a healthy condition. Any dead, dying, diseased or damaged vegetation shall be removed and replaced with like kind and size as needed, subject to review and approval by the Urban Forest Management Division (UFMD).
18. The existing vegetation along the eastern and northern lot lines shall be deemed to satisfy the transitional screening requirement, subject to review and approval by UFMD to ensure the 25 foot transitional screening requirements remain except for Lot 194 which is owned by the applicant. In the event Lot 194 is no longer owner occupied, full transitional screening shall be provided. To the north of the parking lot, the hedge and the existing row of evergreen trees, a maximum of fifteen (15) feet on center as shown on the SPA plat shall be maintained. These shall be large evergreens a minimum of six (6) feet in height. In addition, between the hedge and the evergreen trees, an earthen berm shall be provided, as shown on the plat. The vegetation and berm shall extend from the western to the eastern corners of the parking lot, as shown on the plat. The existing vegetation along the western lot lines shall be deemed to satisfy the transitional screening requirement, except within the area of the parking lot and Burke Station Road where existing evergreen trees shall be maintained. The evergreen trees to be maintained shall be sufficient in number and height to create a year-round visual screen for residential properties to the west, subject to review and approval by the UFMD.
19. The existing vegetation along the southern lot line, except as noted below, shall be deemed to satisfy the transitional screening requirement, except that the existing trees shown within the limits of clearing and grading for the funeral home/crematory facility, stormwater management pond and turn lane shall be replaced if removed or if irreparably damaged during development, as determined by the UFMD. Any required replacement trees shall be installed and maintained within the area between the funeral home facility and Braddock Road, to the satisfaction of the

Urban Forest Management. All vegetation required for screening purposes shall be maintained in good health. Dead or dying vegetation shall be replaced with like-kind vegetation.

20. As shown on Sheet 1 of the SPA plat, the applicant shall preserve and maintain the "Undisturbed Area" along the southeastern property boundary along Braddock Road if and when Wooded Area A is developed. If the area shown to be cleared is cleared to meet adequate outfall, it shall be re-vegetated with native plant material in amount, variety and size as determined by UFMD. An existing buffer of vegetation a minimum 25 feet wide shall be preserved and maintained along the eastern boundary of Wooded Area A to serve as transitional screening. Additional evergreen screening trees and/or shrubs shall be planted to supplement the existing vegetation in order to meet the intent of transitional screening, subject to review and approval by the UFMD.
21. Wooded Areas C and D shall remain in their entirety. Any dead, dying, diseased or damaged vegetation shall be removed and replaced subject to review and approval by the UFMD.
22. The barrier requirements shall be waived along all the lot lines of the special permit property.
23. Existing vegetation shall be preserved to the maximum extent reasonable, consistent with the uses approved with this SPA, as per Note 12 on Sheet 1 of the SPA plat, and as set forth under the PFM and County Code requirements to ensure the tree cover canopy requirements are maintained.
24. Unless a 10-year tree cover canopy requirement modification request is applied for and approved by the Urban Forest Management Division during the site plan review process, the 10-year tree cover canopy shall be met by:
 1. Off-site Tree Banking
 2. Contributions to the Tree Preservation and Planting Fund
 3. On-site planting maximizing opportunities to gain additional 10-year tree canopy credit for trees planted to provide environmental and ecological benefits
 4. and/or a combination of the above techniques, subject to review and approval by the Urban Forest Management Division.
25. A Tree Preservation Plan and Narrative shall be submitted as part of the first and all subsequent site plan submissions which involve removal and preservation of trees within 25 feet of the limits of clearing and grading. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the UFMD, DPWES.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees, on and off-site, living or dead with trunks 8 inches in diameter and greater (measured at 4 ½ -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located within 25 feet to either side of the limits of clearing and grading. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fencing. Tree protection fencing shall be erected at the limits of clearing and grading in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots.

All tree protection fencing shall be installed prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

The Applicant shall root prune, as needed, to comply with the tree preservation requirements of these conditions. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- Root pruning shall be conducted under the supervision of a certified arborist.
- An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as conditioned and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or registered consulting arborist to monitor all construction and tree preservation efforts in order to ensure conformance with all tree preservation conditions, and UFMD approvals. The monitoring schedule shall be described and detailed in the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

26. A site plan shall be submitted for the first phase and all subsequent phases of the soil storage area. The first site plan shall be submitted within six (6) months of approval of this SPA and shall include at the minimum the existing disturbance and may include the next phase of development. Silt ponds/stormwater management/Best Management Practices (SWM/BMP) ponds and the configuration of each phase shall be as approved by DPWES on the site plan.

27. The ultimate height of the soil storage area at the face of the slope shall be no greater than that depicted on the SPA plat, with a maximum height of 26 feet. The limits of disturbance for the soil storage area shall be no greater than that depicted on the SPA plat. This area shall only be used for storage of excess soil from graves and construction of crypts, columbaria, mausoleums or niches. No soil, dirt, and/or other debris shall be imported from off-site sources for inclusion in the soil storage area, and no construction debris of any kind shall be placed within the soil storage area shown.
28. Any land disturbance, including, but not limited to the area depicted on the SPA plat as "temporary storage area" shall meet the requirements of Chapter 104 of the Code of the County of Fairfax, Erosion and Sediment Control, and be in accordance with the Erosion and Sediment (E&S) Control Handbook, as determined by DPWES.
29. Immediately after construction for the stormwater management/sediment ponds and diversion dike is completed, plantings shall be provided on the upslope side of the pond (excluding the fill dam embankment or areas within 10 feet of the toe of the embankment slope and abutment contacts), as well as downslope side of the diversion dike to provide screening for the adjacent properties and provide revegetation of these areas. Additionally, as each lift is completed and the area is compacted, or at the completion of each site plan representing each phase, which ever comes first or as appropriate as determined by DPWES, the face of the lifts shall be planted, as determined necessary by UFMD. These plantings shall be shown on a landscaping plan and be part of the first and all subsequent site plan submissions, subject to review and approval by UFMD.
30. The site plan proposing the final phase of soil storage, such that the final grade shown on the SPA plat will be reached for the soil storage area shall include a final planting/reforestation plan to be submitted to UFMD for review and approval. This plan shall include the proposed placement, amount, variety and size of the plant material to fill in open areas on the face of the slopes.
31. A full size copy of the approved SPA plat and development conditions shall be included with the first site plan submission and all subsequent site plan submissions for each phase of the fill operation for the soil storage area.
32. All requirements pertaining to adequate outfall and stormwater quantity and quality control shall be provided for review and approval if required by DPWES. If stormwater detention and/or BMP ponds must be provided, they shall be located within the areas shown to be cleared, other than what is needed to meet adequate outfall.
33. Except for those structures shown on the SPA plat as "previously approved", all new crypts, columbaria, mausoleums and niches may be located any place within the cemetery, with the following limitations:
 - No structures shall be located on top of occupied gravesites;
 - No structures shall be located within the shaded areas as depicted on Sheet 5 of 7, Exhibit A, of the SPA plat;
 - All structures located in the unshaded areas shall be a minimum fifty (50) feet from any exterior lot line;

- All structures shall have a maximum height of 25 feet above the concrete foundation upon which it is placed;
- All structures shall have a maximum footprint of 400 square feet; and,
- All structures shall be screened from the view of any adjacent residential use property by evergreen vegetation with a minimum planted height of six (6) feet and an ultimate growth height equal or exceeding the height of the crypts, columbaria or mausoleums.

34. There shall be no time limitation on commencement of construction for uses approved in this SPA unless otherwise noted in these conditions.

35. A Resource Protection Area (RPA) field delineation study shall be completed as required by DPWES.

These conditions incorporate and supersede all previously approved conditions. This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be responsible for obtaining any required Non-Residential Use Permits through established procedures, and this special permit shall not be valid until this has been accomplished.

Mr. Smith seconded the motion, which carried by a vote of 7-0.